

**Amendments to the Drawings:**

The attached sheets of drawings include corrected drawings in compliance with 37 CFR 1.121(d). These sheets, which include FIGS. 1-8, replace the original sheets. The drawings have been corrected to address objections raised by the Examiner.

Attachment: Replacement Sheets (4)

## **REMARKS**

### **I. Status of Claims**

Claims 22-42 are pending in the application. Claim 22 is independent. Claims 22, 24, 26-27, 29-32, 35-37, and 42 are currently amended. Support for the additional claim language can at least be found in paragraphs [0009] and [0024] of the application as published.

The Office Action objects to the drawings as allegedly not being in compliance with 37 CFR 1.121(d).

Claims 26-27, 31, and 35 are rejected under 35 U.S.C. 112, second paragraph, for lacking antecedent basis.

Claims 22-33, 35, and 42 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Zucherman et al. (U.S. Publication 2001/0016743) (“Zucherman”).

Claims 22 and 34 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Zucherman.

Claims 22 and 40-41 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Zucherman.

Claims 36-39 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Zucherman as applied to claim 22 above.

The Applicant respectfully requests reconsideration of these rejections in view of the foregoing amendments and the following remarks.

### **II. Amendments to the Claims and Specification**

The Applicant respectfully submits that the claims and specification are amended to clarify descriptions relating to reference numerals 1 and 2. More precisely, the Applicant respectfully submits that the terms “anterior zone,” “anterior face,” and “anterior portion” used to describe reference numeral 1, as well as the terms “posterior zone” and “posterior portion” used for describing reference numeral 2, respectively, have the same meaning and have the same scope. Accordingly, to clarify this point and to avoid any further objections as to claim form, the Applicant has replaced “zone” and “face” with “portion” throughout the specification and claims.

### **III. 35 USC 112, second paragraph, Rejections**

The Applicant respectfully submits that the claims are amended to correct any perceived ambiguity.

### **IV. Drawings**

The attached sheets of drawings include corrected drawings in compliance with 37 CFR 1.121(d). These sheets, which include FIGS. 1-8, replace the original sheets. The drawings have been corrected to address objections raised by the Examiner with respect to the clarity of the drawings as originally filed.

With respect to paragraph 2 of the drawing objections pointed out in the Office Action, the Applicant respectfully submits that indeed all of the reference numerals of the drawings are correctly mentioned in the description. For example, as evidenced in the chart provided herein below, the following references numerals are supported in the specification as follows:

<b>Ref.</b>	<b>Description</b>
1	anterior zone, anterior portion, anterior face (paragraphs 45, 46, 47, and 50)
2	posterior zone, posterior portion (paragraphs 47, 49, 52, and 55)
3	support surface, bearing surface (paragraphs 47 and 49)
3a and 3b	two grooves (paragraph 50)
4	top face (paragraphs 48 and 50)
5	bottom face (paragraphs 48 and 50)
6	vertical portion (paragraph 49)
7	zone (paragraph 49)
8	transverse projection (paragraph 50)
9a and 9b	crossed ligaments (paragraph 54)
10	edge (paragraph 49)
11	hole (paragraph 54)
12	loop (paragraph 45)
13	broad symmetrically-opposite surfaces (paragraph

	50)
14	shallow groove (paragraph 55)
15	through recess (paragraph 52)
16	teeth (paragraph 53)
17	furrow (paragraph 54)
E	process (paragraph 48)
L	laminar (paragraphs 47 and 48)
J	junction point (paragraphs 48 and 51)

## V. Pending Claims

Claim 22, the only independent claim, stands rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Zucherman.

The Applicant respectfully submits that claim 22 is patentable over the cited references at least because it recites an intervertebral support comprising, *inter alia*, "...an anterior portion suitable for being positioned in the space between the underlying and overlying laminae of two adjacent vertebrae, for restoring an anatomical intervertebral spacing, and a posterior portion comprising retaining means for preventing the support from migrating towards the anterior portion of the spine by pressing against the laminae."

The Applicant respectfully submits that claim 22 has been amended to emphasize the differences between certain embodiments of the present invention and Zucherman.

First, it is respectfully submitted that Zucherman discloses an implant for the relief of pain. This implant is positioned between the first and second spinous processes (*See* paragraph 5 of Zucherman). This positioning arrangement, which is commonly known in the art, has drawbacks. That said, the drawbacks of this positioning arrangement are exactly what certain embodiments of the present invention are purporting to address.

More precisely, Zucherman discloses an implant (*See* FIGS. 74-78) comprised of two saddles 706 and 708, which are sloped between the first and second spinous processes (*See* paragraphs [0121-0122]), and four arms 710, 712, 714 and 716 permitting the stabilization of the implant between the adjacent spinous processes (*See* paragraph [0118]). Then, the implant comes

in thrust against the laminae to reduce movement of the implant.

By contrast, an object of certain embodiments of the present invention is to propose an implant in a specific positioning enabling, in particular, restoration of articular mobility with full control over flexing, extension, and rotation of the spine (*See* [0007] of Applicant's specification as published), to bring the support point to posterior arc where the load is most important (*See* [0010] of Applicant's specification as published), and to restore and maintain a satisfactory disk spacing and provide better damping of the forces acting at this level, providing better relief for the inter-vertebral disk (*See* [0013] of Applicant's specification as published).

The applicant submits that Zucherman does not teach or suggest such an implant. Rather, it is respectfully submitted that the implant disclosed in Zucherman is not inserted between two adjacent vertebrae in the space between the under and overlying laminae as in the invention of claim 22. The positioning of the implant in certain embodiments of the present invention is significant because it creates two rotation points: one between the superior laminae and the top of the anterior portion, and one between the inferior laminae and the bottom of the anterior portion. Accordingly, these two points permit restoration of articular mobility as discussed herein above.

Further, it is respectfully submitted that the saddles 706 and 708 of Zucherman do not correspond to the anterior and posterior portions of certain embodiments of the present invention as alleged in the Office Action. In addition, the saddles of Zucherman do not have the same function as the anterior and posterior portions of certain embodiments of the present invention. Further, it appears that Office Action is incorrectly alleging that the implant of Zucherman is upside-down, since the saddles 706 and 708 are adapted to be in contact with two adjacent spinous processes.

The Applicant respectfully submits that neither Zucherman nor any of the other cited references disclose an implant positioned between two adjacent laminae in the manner as claimed by the Applicant.

Furthermore, the Application submits that it would not have been obvious to modify the implant of Zucherman to arrive at the inter-laminae implant as claimed in the invention of claim 22 (i.e., an implant that restores articular mobility and retaining means that prevents the support from migrating towards the anterior portions of the spine by pressing against the laminae). Further, as discussed in *KSR Int'l Co. v. Teleflex, et al.*, No. 04-1350, (U.S. Apr. 30, 2007), the

Applicant respectfully submit that it remains necessary to identify the reason why a person of ordinary skill in the art would have been prompted to combine alleged prior art elements in the manner as claimed by the Applicant. Obviousness cannot be sustained on mere conclusory statements and it is not proper under 35 U.S.C. § 103 to use the Applicant's application as a blueprint to pick and choose unrelated features to reproduce, in hindsight, Applicant's invention.

Therefore, the Applicant respectfully submits that, for at least these reasons, claim 22 and its dependent claims are patentable over the cited references.

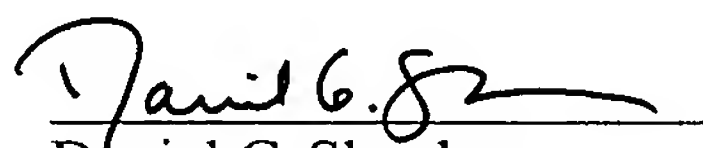
## **VI. Conclusion**

The Applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4420 to discuss any matter concerning this application. **The Office is authorized to charge any fees related to this communication to Deposit Account No. 11-0600.**

Respectfully submitted,

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**APPENDIX**

FIGS. 1-8